

## **REMARKS**

### **I. Introduction**

Claims 1 to 25 are pending in the present application with claims 1 to 20 elected for prosecution. Claims 1 to 20 stand rejected. In view of the foregoing amendments and following remarks, it is respectfully submitted that claims 1 to 20 are allowable, and reconsideration is respectfully requested.

Applicants thank the Examiner for acknowledging the claim for foreign priority and that all certified copies of the priority documents have been received.

Applicants thank the Examiner for considering the previously filed Information Disclosure Statement, PTO-1449 paper and cited references.

### **II. Rejection of Claims 1 to 20 Under 35 U.S.C. § 103(a)**

Claims 1 to 20 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 5,783,503 ("Gillespie et al.") in view of U.S. Patent No. 5,725,927 ("Zilg et al."). Applicants respectfully submit that the combination of Gillespie et al. and Zilg et al. does not render obvious claims 1 to 20 for the following reasons.

Claim 1 relates to a cleaning cloth. Claim 1 recites a microfilament nonwoven weighing from 30 g/m<sup>2</sup> to 500 g/m<sup>2</sup>, wherein the nonwoven is made from melt-spun, stretched continuous multicomponent filaments having a titer of 1.5 to 5 dtex, which are immediately laid down to form a nonwoven, and the continuous multicomponent filaments after pre-bonding, are split at least to 80% to form continuous micro-filaments having a titer of 0.05 to 1.0 dtex and bonded. Claim 1 has been amended such that the filaments have an isotropic fiber distribution. Support for the amendment may be found, for example, on page 3 lines 7 to 9.

The Office Action alleges that Gillespie et al. teach a multicomponent thermoplastic continuous filament produced by meltspinning. The Office Action admits that Gillespie et al. do not disclose that the basis weight of the microfilament is from 30 g/m<sup>2</sup> to 500 g/m<sup>2</sup>.

The Office Action alleges that Zilg et al. disclose a cloth for damp and dry cleaning of surfaces. The Office Action alleges that, depending on the particular use, the surface weight of the cloth can vary from 50 to 500 g/m<sup>2</sup>.

Applicants respectfully submit that the combination of Gillespie et al. and Zilg et al. do not disclose, or even suggest, the features of amended claim 1.

Gillespie et al. do not disclose, or even suggest, a microfilament nonwoven weighing from 30 g/m<sup>2</sup> to 500 g/m<sup>2</sup> as admitted by the Office Action. Gillespie et al. furthermore do not disclose, or even suggest, continuous multicomponent filaments which are pre-bonded. Gillespie et al. merely require extruding at least two thermoplastic components. Col. 3, lines 3 to 7. Gillespie et al. then split the filaments into smaller filaments. Col. 3, lines 7 to 10. Gillespie et al. are silent as to pre-bonded filaments. Gillespie et al. are limited to a type of bonding of the fabric after it is made and do not provide any type of configuration which has any pre-bonded filaments. Col. 7, lines 30 to 37. Gillespie et al. also do not disclose, or even suggest, filaments which have an isotropic fiber distribution.

The addition of the Zilg et al. reference does not correct the defects of Gillespie et al. Zilg et al. do not disclose, or even suggest, a cloth which has filaments which are pre-bonded. Zilg et al. merely provide a plurality of filament loops obtained by needle tufting which project away from the base layer. Col. 2, lines 12 to 14. Zilg et al. provide a cloth which has a surface weight which varies between 50 to 500 g/m<sup>2</sup>, however the cloth provided is not a pre-bonded set of continuous multicomponent filaments. Col. 4, lines 44 and 45. Zilg et al. also do not disclose, or even suggest, an isotropic fiber distribution. As a result, Zilg et al. do not disclose, or even suggest a fabric with the features of amended claim 1.

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a prima facie case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish prima facie obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. In re Vaeck, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. In re Merck & Co., Inc., 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim limitations. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). As indicated above, the combination of Gillespie et al. and Zilg et al. does not disclose, or even suggest, all of the limitations of claim 1, namely a microfilament nonwoven unit weighing from 30 g/m<sup>2</sup> to 500 g/m<sup>2</sup>, which is pre-bonded and has a isotropic fiber distribution.

Moreover, it is respectfully submitted that the cases of In re Fine, supra, and In re Jones, 21 U.S.P.Q.2d 1941 (Fed. Cir. 1992), make plain that the Office Action's generalized assertions that it would have been obvious to modify or combine the references do not properly support a § 103 rejection. It is respectfully submitted that those cases make plain that the Office Action reflects a subjective "obvious to try" standard, and therefore does not reflect the proper evidence to support an obviousness rejection based on the reference relied upon. In particular, the Court in the case of In re Fine stated that:

The PTO has the burden under section 103 to establish a *prima facie* case of obviousness. It can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references. This it has not done. . . .

**Instead, the Examiner relies on hindsight in reaching his obviousness determination. . . . One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.**

In re Fine, 5 U.S.P.Q.2d at 1598 to 1600 (citations omitted; italics in original; emphasis added). Likewise, the Court in the case of In re Jones stated that:

Before the PTO may combine the disclosures of two or more prior art references in order to establish *prima facie* obviousness, there must be some suggestion for doing so, found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. . . .

**Conspicuously missing from this record is any evidence, other than the PTO's speculation (if it be called evidence) that one of ordinary skill . . . would have been motivated to make the modifications . . . necessary to arrive at the claimed [invention].**

In re Jones, 21 U.S.P.Q.2d at 1943, 1944 (citations omitted; italics in original).

That is exactly the case here since it is believed and respectfully submitted that the present Office Action offers no evidence whatsoever, but only conclusory hindsight, reconstruction and speculation, which these cases have indicated does not constitute evidence that will support a proper obviousness

finding. Unsupported assertions are not evidence as to why a person having ordinary skill in the art would be motivated to modify or combine references to provide the claimed subject matter of the claims to address the problems met thereby. Accordingly, the Office must provide proper evidence of a motivation for modifying or combining the references to provide the claimed subject matter. Applicants submit that a person of ordinary skill in the art would not combine Gillespie et al., allegedly related to a meltspun multicomponent thermoplastic continuous filaments and Zilg et al. allegedly disclosing a cleaning cloth.

More recently, the Federal Circuit in the case of In re Kotzab has made plain that even if a claim concerns a "technologically simple concept" -- which is not the case here -- there still must be some finding as to the "specific understanding or principle within the knowledge of a skilled artisan" that would motivate a person having no knowledge of the claimed subject matter to "make the combination in the manner claimed," stating that:

In this case, the Examiner and the Board fell into the hindsight trap. The idea of a single sensor controlling multiple valves, as opposed to multiple sensors controlling multiple valves, is a technologically simple concept. With this simple concept in mind, the Patent and Trademark Office found prior art statements that in the abstract appeared to suggest the claimed limitation. But, there was no finding as to the specific understanding or principle within the knowledge of a skilled artisan that would have motivated one with no knowledge of Kotzab's invention to make the combination in the manner claimed. In light of our holding of the absence of a motivation to combine the teachings in Evans, we conclude that the Board did not make out a proper prima facie case of obviousness in rejecting [the] claims . . . under 35 U.S.C. Section 103(a) over Evans.

In re Kotzab, 55 U.S.P.Q.2d 1313, 1318 (Fed. Cir. 2000) (emphasis added). Again, it is believed that there have been no such findings.

Accordingly, there is no evidence that the references relied upon, whether taken alone, combined or modified, would provide the features and benefits of claim 1. It is therefore respectfully submitted that claim 1 is allowable for these reasons.

Claims 2 to 20 ultimately depend from claim 1 and therefore include all of the limitations of claim 1. Claims 2 to 20 should be patentable for at least the reasons presented in relation to claim 1. In re Fine.

### III. Rejection of Claims 1 to 20 Under 35 U.S.C. § 103(a)

Claims 1 to 20 were rejected under 35 U.S.C. § 103(a) as unpatentable over Gillespie et al. Applicants respectfully submit that Gillespie et al. do not render obvious claims 1 to 20 for the following reasons.

As an initial note, Applicants respectfully submit that the Office Action applies two references in the body of the rejection, Gillespie et al. and U.S. Patent No. 4,298,649 ("Meitner"), while the first recitation of the rejection on page 5, paragraph 4 is limited to Gillespie et al. Applicants will respectfully address the rejection to both the Gillespie et al. and Meitner references for completeness.

As provided above Gillespie et al. do not disclose, or even suggest, a microfilament nonwoven weighing from 30 g/m<sup>2</sup> to 500 g/m<sup>2</sup> as admitted by the Office Action. Gillespie et al. furthermore do not disclose, or even suggest, continuous multicomponent filaments which are pre-bonded. Gillespie et al. merely require extruding at least two thermoplastic components. Col. 3, lines 3 to 7. Gillespie et al. then split the filaments into smaller filaments. Col. 3, lines 7 to 10. Gillespie et al. are silent as to pre-bonded filaments. Gillespie et al. are limited to bonding the fabric after it is made. Col. 7, lines 30 to 37. Gillespie et al. also do not disclose, or even suggest, filaments which have an isotropic fiber distribution. Gillespie et al. do not disclose, or even suggest, such an isotropic fiber distribution.

The addition of Meitner does not correct the deficiencies of Gillespie et al. Meitner does not disclose, or even suggest, multicomponent filaments which are pre-bonded. Meitner only bonds fibers after splitting through heat and pressure. Col. 3, lines 30 to 33. Meitner also does not disclose, or even suggest, an isotropic fiber distribution. Meitner merely provide a highly oriented film in one direction. Col. 3, lines 12 to 14. As a result of the highly oriented film, Meitner actually teaches away from the isotropic fiber distribution. Furthermore, Meitner provides materials with substantially higher weight bases than that required in amended claim 1. As a first example, a material with a basis weight of 2.0 g/yd<sup>2</sup> is recited. Col. 4, lines 8 to 10. As a second example, a composite material is recited with a total basis weight of 2.6 g/yd<sup>2</sup>. Meitner does not provide any configuration of materials with 30 g/m<sup>2</sup> to 500 g/m<sup>2</sup> weights.

For the foregoing reasons, Applicants respectfully submit that the combination of Gillespie et al. and Meitner do not disclose, or even suggest, the features of amended claim 1. Applicants respectfully request withdrawal of the rejection to claim 1.

Claims 2 to 20 ultimately depend from amended claim 1 and therefore include all the features of amended claim 1. Claims 2 to 20 should be patentable for at least the reasons presented above in relation to claim 1. Applicants respectfully request withdrawal of the rejections to claim 1.

• **IV. Conclusion**

Attached hereto is a marked-up version of the changes made to the claims by the current Amendment. The attached pages are captioned "**Version with Markings to Show Changes Made.**"

It is therefore respectfully submitted that all pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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**Version with Markings to Show Changes Made**

**IN THE CLAIMS:**

Claim 1 has been amended, without prejudice, as follows:

1. (Amended) A cleaning cloth comprising a microfilament nonwoven weighing from 30 g/m<sup>2</sup> to 500 g/m<sup>2</sup>, wherein the nonwoven is made from melt-spun, stretched continuous multicomponent filaments having a titer of 1.5 to 5 dtex, which are immediately laid down to form a nonwoven, and the continuous multicomponent filaments[, optionally] after pre-bonding, are split at least to 80% to form continuous micro-filaments having a titer of 0.05 to 1.0 dtex and bonded, wherein the filaments have an isotropic fiber distribution.